IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR

MONDAY, THE 19TH NOVEMBER 2007 / 28TH KARTHIKA 1929

WP(C).No. 295 of 2004(I)

PETITIONER:

M/S.MERON INDIA (P) LTD.,
CHULLICKAL, COCHIN -5, REP. BY ITS
MANAGING DIRECTOR, KURIAN JOSE.

BY ADV. SRI.V.P.SUKUMAR
SRI.KURYAN THOMAS

RESPONDENTS:
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1. THE ADDITIONAL SALES TAX OFFICER,
IIND CIRCLE, MATTANCHERRY.

2. THE DISTRICT LEVEL COMMITTEE FOR
SALES TAX EXEMPTION, ERNAKULAM REP. BY THE
GENERAL MANAGER, DISTRICT INDUSTRIES CENTRE,
ERNAKULAM.

3. THE STATE LEVEL COMMITTEE FOR SALES
TAX EXEMPTION, THIRUVANANTHAPURAM REP. BY THE
DIRECTOR OF INDUSTRIES AND COMMERCE,
THIRUVANANTHAPURAM.

4. THE APPELLATE ASSISTANT COMMISSIONER,
COMMERCIAL TAXES, ERNAKULAM.

5. THE DEPUTY COMMISSIONER OF COMMERCIAL
TAXES, ERNAKULAM.

6. THE DEPUTY TAHSILDAR (RR)
TALUK OFFICE, KOCHI.

BY GOVERNMENT PLEADER SRI. K.P. PRADEEP

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 19/11/2007 THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS:

EXT. P1 TRUE COPY OF THE CERTIFICATE OF INCORPORATION ISSUED BY THE REGISTRAR OF COMPANIES, KERALA DATED 26.10.1995

EXT.P2 TRUE COPY OF THE ENGINEERS' CERTIFICATE DATED 16.11.2001 ISSUED BY THE ASST. EXE. ENGINEER.

EXT.P3 TRUE COPY OF THE CERTIFICASTE DATED 19.9.2002 ISSUED BY THE ERNAKULAM BRANCH OF THE KERALA FINANCIAL CORPORATION.

EXT.P4 TRUE COPY OF THE BUILDING TAX RECEIPT DATED 31.10.1997 FOR THE YEAR 1997-98

EXT.P5 TRUE COPY OF THE LETTER DATED 21.4.2000 SENT BY THE KFC TO THE GENERAL MANAGER, DIST. INDUSTRIES CENTRE, ERNAKULAM.

EXT.P6 TRUE COPY OF THE LETTER DATED 23.5.2000 SENT BY THE DIRECTOR OF INDUSTRIES AND COMMERCE TO THE GENERAL MANAGER, DISTRICT INDUSTRIES CENTRE, ERNAKULAM.

EXT.P7 TRUE COPY OF THE ORDER DATED 3.6.2000 PASSED BY THE GENERAL MANAGER, DISTRICT INDUSTRIES CENTRE, ERNAKULAM.

EXT.P8 TRUE COPY OF THE RETURNS FILED BY THE PETITIONER BEFORE THE FIRST RESPONDENT UNDER THE KGST ACT FOR THE YEAR 1997-98 DATE NIL

EXT.P9 TRUE COPY OF THE RETURNS FILED BY THE PETITIONER BEFORE THE FIRST RESPONDENT UNDER THE CST ACT FOR THE YEAR 1997-98 DATED NIL

EXT.P10 TRUE COPY OF THE ORDER DATED 4.6.2002 PASSED BYTHE SECOND RESPONDENT.

EXT.P11 TRUE COPY OF THE ORDER DATED 2.6.2003 PASSED BY THE THIRD RESPONDENT.

EXT.P12 TRUE COPY OF THE REVISED ASSESSMENT ORDER DATED 31.1.2002 PASSED BY THE FIRST RESPONDENT UNDER KGST ACT FOR 1997-98

EXT.P13 TRUE COPY OF THE REVISED ASSESSMENT ORDER DATED 31.12.2001 PASSED BY THE FIRST RESPONDENT UNDER CST ACT FOR 1997-98

EXT.P14 TRUE COPY OF THE REVISED ASSESSMENT ORDER DATED 4.6.2002 PASSED BY THE FIRST RESPONDENT FOR THE YEAR 1998-99

EXT.P15 TRUE COPY OF THE APPEAL DATED 24.4.2002 FILED BY THE PETITIONER BEFORE THE FOURTH RESPONDENT UNDER KGST ACT FOR 1997-98

EXT.P16 TRUE COPY OF THE APPEAL DATED 28.1.2002 FILED BY THE PETITIONER BEFORE THE 4TH RESPONDENT UNDER CST ACT FOR 1997-98

EXT.P17 TRUE COPY OF THE APPEAL DATED 4.7.2002 FILED BY THE PETITIONER BEFORE THE FOURTH RESPONDENT UNDER KGST ACT FOR 1998-99

EXT.P18 TRUE COPY OF THE PENALTY ORDER DATED 28.5.2002 PASSED BY THE FIRST RESPONDENT UNDER THE KGST ACT FOR 1997-98

EXT.P19 TRUE COPY OF THE PENALTY ORDER DATED 28.5.2002 PASSED BY THE FIRST RESPONDENT UNDER THE CST ACT FOR 1997-98

EXT.P20 TRUE COPY OF THE APPLICATION FOR REVISION DATED 4.7.2002 FILED BY THE PETITIONER BEFORE THE 5TH RESPONDENT UNDER THE KGST ACT FOR THE YEAR 1997-98

EXT.P21 TRUE COPY OF THE APPLICATION FOR REVISION DATED 4.7.2002 FILED BY THE PETITIONER BEFORE THE 5TH RESPONDENT UNDER THE CST ACT FOR THE YEAR 1997-98

EXT.P22 TRUE COPY OF THE RR NOTICE DATED 13.9.2002 ISSUED TO THE PETITIONER BY THE 6TH RESPONDENT UNDER SECTION 7 OF THE RR ACT FOR 1997-98

EXT.P23 TRUE COPY OF THE RR NOTICE DATED 13.9.2002 ISSUED TO THE PETITIONER BY THE 6TH RESPONDENT UNDER SECTION 7 OF THE RR ACT FOR 1998-99

EXT.P24 TRUE COPY OF THE RR NSOTICE DATED 13.9.2002ISSUED TO THE PETITIONER BY THE 6TH RESPONDENT UNDER SECTION 34 OF THE RR ACT FOR 1997-98

EXT.P25 TRUE COPY OF THE RR NOTICE DATED 13.9.2002 ISSUED TO THE PETITIONER BY THE 6TH RESPONDENT UNDER SECTION 34 OF THE RR ACT FOR 1998-99

EXT.P26 TRUE COPY OF THE JUDGMENT DATED 18.9.2002 PASSED BY THE HON'BLE HIGH COURT OF KERALA IN OP NO. 26612 OF 2002 R

RESPONDENTS' EXHIBITS: NIL.

TRUE COPY

P.S. TO JUDGE.

C.N. RAMACHANDRAN NAIR, J.

W.P.C. NO. 295 OF 2004

Dated this the 19th day of November, 2007

JUDGMENT

This Writ Petition is filed for direction to the respondents to grant sales tax exemption for the industrial unit run by the petitioner for two years from 1997-1999. It is admitted that exemption certificate was not obtained during the period the unit was operating. However, petitioner's case is that unit was closed in 1999 and therefore petitioner is entitled to exemption for two years. Government Pleader on instructions submitted that an enquiry was conducted by respondents and it was found that unit started commercial poduction on 2.1.1998 and it was closed in Febryary, 1998 after one month's operation. According to him, petitioner transferred the unit to another person and therefore exemption claimed should not be granted. Transfer of the unit to another person is admitted by the petitioner. I do not think exemption can be considered or granted after transfer of the unit. It was for the petitioner to have got exemption during the period of operation. There is no scope for entertaining the claim at this distance of time. W.P. is de void of any merit and is dismissed.

(C.N. RAMACHANDRAN NAIR)
Judge